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6 **IN THE UNITED STATES DISTRICT COURT**

7 **FOR THE DISTRICT OF ARIZONA**

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9 United States of America, ) CR 02-1168-PHX-DGC

10 Plaintiff, ) **ORDER**

11 vs. )

12 Ruben Moquino, )

13 Defendant. )

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15 Pursuant to the Judgment of the Ninth Circuit dated January 19, 2006, and the

16 Memorandum issued by the Ninth Circuit on January 9, 2006, the Court held a hearing on

17 May 1, 2006. The purpose of the hearing was to answer the following question: “whether

18 the sentence imposed would have been materially different had the district court known that

19 the guidelines were advisory.” *United States v. Ameline*, 409 F.3d 1073, 1084 (9<sup>th</sup> Cir. 2005).

20 The Court heard from defense counsel, Defendant, and counsel for the Government. Prior

21 to the hearing the Court reviewed its previous sentencing decision, the presentence report,

22 and the transcripts of sentencing hearings held on May 17 and 24, 2004.

23 Having considered these matters, the Court concluded that the sentence imposed in

24 this case would not have differed materially had the Court been aware that the Guidelines

25 were advisory. The basis for this conclusion was explained on the record.

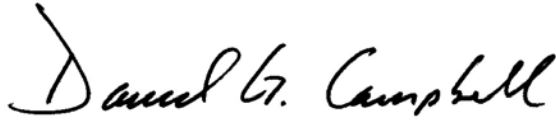
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1 As requested by defense counsel, the Court will recommend that Defendant be  
2 permitted to serve his supervised release in Wisconsin if suitable living arrangements can be  
3 made.

4 DATED this 2<sup>nd</sup> day of May, 2006.

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8 David G. Campbell  
9 United States District Judge  
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